

**STATE OF RHODE ISLAND
PROVIDENCE, SC**

SUPERIOR COURT

NED STEVENS ADVERTISING, INC.

V

CA No. PC 07-1775

**JOHN LACE, THE UNITED STATES
OF AMERICA (DEPARTMENT OF
THE INTERNAL REVENUE SERVICE),
MARK ADAMS, Treasurer of THE TOWN
OF BURRIVILLE, ADELITA S. OREFICE,
Director of THE RHODE ISLAND
DEPARTMENT OF LABOR & TRAINING,
BEVERLY NAJARIAN, Director of THE
RHODE ISLAND DEPARTMENT
OF ADMINISTRATION – DIVISION
OF TAXATION, COFFEY MUSIC CO.,
INC., PATRICIA MCGUIRE and
PLYMOUTH MCHALE, LLC**

FIRST AMENDED COMPLAINT TO INTERPLEAD SURPLUS FUNDS

Now comes plaintiff and pursuant to Super. R. Civ. P. 15, hereby states as its first amended complaint:

Parties and Jurisdiction

1. Plaintiff Ned Stevens Advertising is a duly formed RI corporation with a place of business in Cranston, RI.
2. Defendant John Lace, is upon information and belief, a resident of the Town of Burrillville, RI.
3. Defendant United States of America, Department of the Internal Revenue Service is a United States government agency within the United States Department of the Treasury.
4. Defendant Mark Adams is the Treasurer of the Town of Burrillville, a duly formed municipality in the State of Rhode Island. This suit is brought in that capacity.
5. Defendant Adelita S. Orefice, is the Director of the Rhode Island Department of Labor and Training, a duly formed agency of the State of Rhode Island. This suit is brought in that capacity.

(JB). 4-17-07

6. Defendant Beverly Najarian, is the Director of the Rhode Island Department of Administration – Division of Taxation, a duly formed agency of the State of Rhode Island. This suit is brought in that capacity.

7. Defendant Coffey Music Co., Inc. is a duly formed Massachusetts corporation in Norwood, MA and a judgment creditor of plaintiff.

8. Defendant Patricia McGuire is a resident of Glocester, RI and a judgment creditor of plaintiff.

9. Defendant Plymouth McHale, LLC is a duly formed RI LLC and purchased the property which is the subject matter of this complaint at a foreclosure sale on 11/17/06.

10. This court has jurisdiction over this matter pursuant to Rule 22 and Rule 57 of the Superior Court Rules of Civil Procedure and The Rhode Island Declaratory Judgment Act, GL § 9-30-1, et seq..

Facts/Travel

11. On or about 6/7/95, defendant John Lace purchased certain real property located at 44 River Street, Harrisville RI 02830 and also known as AP 142, Lot 22 in the Town of Burrillville's Land Evidence Records, from Valiere's Oil Service, Inc..

12. Pursuant to that sale, defendant John Luce executed a promissory note to Valieire Oil Service, Inc. that was secured by granting a mortgage to Valiere Oil Service, Inc., against the property. That mortgage was recorded on 6/7/95 in the Town of Burrillville's Land Evidence Records at Book 283 Page 859.

13. On 5/13/03, Valiere Oil Service, Inc. through its successor in interest, Valmart, Inc. duly assigned all of its right, title and interest in that promissory note and mortgage to plaintiff, Ned Stevens Advertising, Inc.. The assignment was duly recorded on 5/20/03 in the Town of Burrillville's Land Evidence Records at Book 283 Page 859.

14. Plaintiff Ned Stevens Advertising, Inc. then lawfully brought proceedings to foreclose on the mortgage because defendant John Lace had defaulted of the promissory note and mortgage as set forth in paragraph 12 of this complaint.

15. A foreclosure sale was held on 11/17/06 and the property was purchased for the amount of \$101,000.00 by a company called Plymouth McHale, LLC, a duly formed Limited Liability Company in the State of RI.

16. Plaintiff accepted the highest bid of \$101,000.00, from the foreclosure sale. Plaintiff was owed the amount of \$88,383.68 pursuant to the foreclosure sale. It is itemized as follows:

- a. \$78,451.00 for principal;
- b. \$3,120.00 for interest;
- c. \$2,800.00 for attorney fees (including bringing this action)
- d. \$2,461.68 for advertising;
- e. \$440.00 for court costs; and,
- f. \$1,111.00 for the auctioneer's fee.

A surplus of amount of funds for the amount of \$12,616.32 now exists.

The Other Creditors in Line

17. The defendant United States of America, Department of the Internal Revenue Service recorded three Notices of Federal Tax Liens against the property. They are:

- a. Notice of Federal Tax Lien Serial No. 60184254 on 6/29/01 for the amount of \$53,599.52 and recorded on 7/5/01 at Book AB2, Page 48.
- b. Notice of Federal Tax Lien Serial No. 60184254 on 1/11/02 for the amount of \$53,599.52 and recorded on 1/16/02.
- c. Notice of Federal Tax Lien Serial No. 240361805 on 7/28/05 for the amount of \$2,579.83 and recorded 8/5/05 at Book 440, Page 169.

18. The defendant Town of Burrillville has issued a Municipal Lien Certificate for RP Tax Roll Assessments for 2004-2006 for the amount of \$1,724.34.

19. The defendant Rhode Island Department of Employment & Training recorded a Notice of Tax Lien against the property on 10/23/96.

20. The defendant Rhode Island Department of Administration – Division of Taxation Employer Tax Section, recorded a Notice of Tax Lien against the property on 10/3/02.

21. The defendant Coffey Music Co., Inc. recorded an execution on a judgment against the property on 1/4/01 for the amount of \$857.78 pursuant to a case filed in the Rhode Island District Court titled, Coffey Music Co., Inc. v John K. Lace File No. 00-5801, in the Sixth Division District Court, Small Claims Division.

22. Defendant Patricia McGuire recorded an execution on a judgment against the property on 4/23/03 at Book AB2, Page 53 for the amount of \$81,264.02 pursuant to a case filed in the Rhode Island Superior Court titled Patricia McGuire v Granite Developments, Inc., John K. Lace, Thomas Mainville and Brian Lombardi, CA No. 98-2219 in the Providence County Superior Court.

23. Defendant Plymouth McHale LLC is a duly formed Rhode Island Limited Liability Company and purchased the property at issue at the foreclosure sale.

24. Plaintiff has given all due notice of the foreclosure proceedings to all parties so-entitled and the property subject was sold at a foreclosure sale on for \$101,000.00. Plaintiff is owed \$88,383.68 and has a priority position to realize these proceeds from the sale and has an excess funds of \$12,616.32.

25. The Department of the Internal Revenue Service had issued a Notice of Levy concerning the funds.

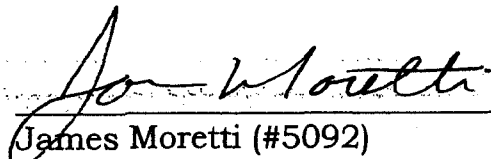
COUNT I

INTERPLEAD SURPLUS FUNDS REALIZED FROM FORECLOSURE SALE

26. Plaintiff repeats paragraphs 1-25 of this complaint.

27. Plaintiff seeks that the court order and allow plaintiff to interplead the balance of the surplus funds of \$12,616.32 realized from the foreclosure sale and order the defendants to respond to this action to claim any right, title and/or interest in the proceeds and discharge the plaintiff from any further liability in disbursing the said amount to anyone of interest.

WHEREFORE plaintiff seeks an order from the court allowing it to interplead all excess funds received from the foreclosure sale after plaintiff is satisfied and discharge plaintiff from any liability for the future disbursements.

A handwritten signature in black ink, appearing to read "James Moretti", is written over a horizontal line.

James Moretti (#5092)

Resnick & Caffrey

300 Centerville Road, #300W

Warwick, RI 02886

738-4500

INTERNAL REVENUE SERVICE
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Lien Recorded : 01/16/2002 - 11:00AM
Recording Number:
UCC Number :
Liber : AB2
Page : 49

Area: SMALL BUSINESS/SELF EMPLOYED #1
Lien Unit Phone: (800) 913-6050

IRS Serial Number: 60184254

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
JOHN LACE

Residence :
1646 E WALLUM LAKE RD
PASCOAG, RI 02859-1824

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/1990		03/19/2001	04/18/2011	3917.04
1040	12/31/1991		03/26/2001	04/25/2011	3787.63
1040	12/31/1992		04/02/2001	05/02/2011	2229.06
1040	12/31/1993		04/09/2001	05/09/2011	4726.77
1040	12/31/1994		04/16/2001	05/16/2011	6348.40
1040	12/31/1995		04/23/2001	05/23/2011	3721.09
1040	12/31/1996		04/30/2001	05/30/2011	13335.13
1040	12/31/1997		05/07/2001	06/06/2011	10530.65
1040	12/31/1998		03/12/2001	04/11/2011	5003.75

Filed at: TOWN CLERK
BURRILLVILLE TOWN HALL
HARRISVILLE, RI 02830

Total \$ 53599.52

This notice was prepared and executed at MANHATTAN, NY
on this, the 11th day of January, 2002.

Authorizing Official:
ELAINE SILVA

Title:
REVENUE OFFICER 06-01-3510

INTERNAL REVENUE SERVICE
FACSIMILE FEDERAL TAX LIEN DOCUMENT

Lien Recorded : 08/09/2005 - 11:02AM
Recording Number:
UCC Number :
Liber : 440
Page : 169

Area: SMALL BUSINESS/SELF EMPLOYED #1
Lien Unit Phone: (800) 829-3903

IRS Serial Number: 240361805

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
JOHN LACE

Residence :
44 RIVER ST
HARRISVILLE, RI 02830-1336

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/1999		09/03/2001	10/03/2011	2579.83

Filed at: TOWN CLERK
BURRILLVILLE TOWN HALL
HARRISVILLE, RI 02830

Total \$ 2579.83

This notice was prepared and executed at MANHATTAN, NY
on this, the 28th day of July, 2005.

Authorizing Official:
SHEILA OBRIEN
(800) 829-3903

Title:
ACS 21-00-0008

INTERNAL REVENUE SERVICE FACSIMILE FEDERAL TAX LIEN DOCUMENT	Lien Recorded : 02/13/2007 - 11:06AM Recording Number: 00015724 UCC Number : Liber : 564 Page : 263
Area: SMALL BUSINESS/SELF EMPLOYED #1 Lien Unit Phone: (800) 913-6050	IRS Serial Number: 341297807

This Lien Has Been Filed in Accordance with
Internal Revenue Regulation 301.6323(f)-1.

Name of Taxpayer :
JOHN K LACE

Residence :
1436 E WALLUM LAKE RD
PASCOAG, RI 02859-1804

With respect to each assessment below, unless notice of lien
is refiled by the date in column(e), this notice shall constitute
the certificate of release of lien as defined in IRC 6325(a).

Form (a)	Period (b)	ID Number (c)	Assessed (d)	Refile Deadline (e)	Unpaid Balance (f)
1040	12/31/2001	XXX-XX-5646	10/09/2006	11/08/2016	771.04
1040	12/31/2002	XXX-XX-5646	10/02/2006	11/01/2016	2519.23
1040	12/31/2003	XXX-XX-5646	09/11/2006	10/11/2016	1744.95

Filed at: TOWN CLERK BURRILLVILLE TOWN HALL HARRISVILLE, RI 02830	Total \$ 5035.22
---	------------------

This notice was prepared and executed at MANHATTAN, NY
on this, the 24th day of January, 2007.

Authorizing Official: ALEXANDER PASSARELLI (401) 826-4702	Title: REVENUE OFFICER 21-02-3436
---	---

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:22:45 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199012 05312007 LACE

318.50	ASSESSED FTP
2,037.89	ASSESSED INT
190.79-	TAX & PENALTY
2,165.60	ASSESSED TOTAL
.00	ACCRUED FTP
1,150.76	ACCRUED INT
1,150.76	TOTAL ACCRUALS
318.50	TOTAL FTP
3,188.65	TOTAL INT
3,316.36	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:22:51 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199112 05312007 LACE

336.00	ASSESSED FTP
1,805.23	ASSESSED INT
1,646.40	TAX & PENALTY
3,787.63	ASSESSED TOTAL
.00	ACCRUED FTP
1,735.03	ACCRUED INT
1,735.03	TOTAL ACCRUALS
336.00	TOTAL FTP
3,540.26	TOTAL INT
5,522.66	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:22:57 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199212 05312007 LACE

211.25	ASSESSED FTP
982.69	ASSESSED INT
1,035.12	TAX & PENALTY
2,229.06	ASSESSED TOTAL
.00	ACCRUED FTP
1,015.62	ACCRUED INT
1,015.62	TOTAL ACCRUALS
211.25	TOTAL FTP
1,998.31	TOTAL INT
3,244.68	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:07 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199312 05312007 LACE

476.50	ASSESSED FTP
1,915.42	ASSESSED INT
2,334.85	TAX & PENALTY
4,726.77	ASSESSED TOTAL
.00	ACCRUED FTP
2,143.10	ACCRUED INT
2,143.10	TOTAL ACCRUALS
476.50	TOTAL FTP
4,058.52	TOTAL INT
6,869.87	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:14 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199412 05312007 LACE

677.00	ASSESSED FTP
2,244.99	ASSESSED INT
3,426.41	TAX & PENALTY
6,348.40	ASSESSED TOTAL
.00	ACCRUED FTP
2,864.17	ACCRUED INT
2,864.17	TOTAL ACCRUALS
677.00	TOTAL FTP
5,109.16	TOTAL INT
9,212.57	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:20 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199512 05312007 LACE

426.50	ASSESSED FTP
1,111.74	ASSESSED INT
2,182.85	TAX & PENALTY
3,721.09	ASSESSED TOTAL
.00	ACCRUED FTP
1,670.54	ACCRUED INT
1,670.54	TOTAL ACCRUALS
426.50	TOTAL FTP
2,782.28	TOTAL INT
5,391.63	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:27 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199612 05312007 LACE

1,349.00	ASSESSED FTP
3,035.26	ASSESSED INT
6,711.00	TAX & PENALTY
11,095.26	ASSESSED TOTAL
.00	ACCRUED FTP
4,442.46	ACCRUED INT
4,442.46	TOTAL ACCRUALS
1,349.00	TOTAL FTP
7,477.72	TOTAL INT
15,537.72	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:36 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199712 05312007 LACE

933.68	ASSESSED FTP
1,742.12	ASSESSED INT
5,513.90	TAX & PENALTY
8,189.70	ASSESSED TOTAL
127.32	ACCRUED FTP
3,279.06	ACCRUED INT
3,406.38	TOTAL ACCRUALS
1,061.00	TOTAL FTP
5,021.18	TOTAL INT
11,596.08	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:47 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199812 05312007 LACE

328.25	ASSESSED FTP
692.27	ASSESSED INT
996.52-	TAX & PENALTY
24.00	ASSESSED TOTAL
.00	ACCRUED FTP
8.83	ACCRUED INT
8.83	TOTAL ACCRUALS
328.25	TOTAL FTP
701.10	TOTAL INT
32.83	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:23:53 AM

INTST [REDACTED]

NM-CTRL>LACE

30 199912 05312007 LACE

145.01	ASSESSED FTP
262.97	ASSESSED INT
2,190.35	TAX & PENALTY
2,598.33	ASSESSED TOTAL
281.49	ACCRUED FTP
1,059.86	ACCRUED INT
1,341.35	TOTAL ACCRUALS
426.50	TOTAL FTP
1,322.83	TOTAL INT
3,939.68	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:24:01 AM

INTST [REDACTED]

NM-CTRL>LACE

30 200112 05312007 LACE

104.50	ASSESSED FTP
148.54	ASSESSED INT
518.00	TAX & PENALTY
771.04	ASSESSED TOTAL
.00	ACCRUED FTP
40.57	ACCRUED INT
40.57	TOTAL ACCRUALS
104.50	TOTAL FTP
189.11	TOTAL INT
811.61	BALANCE DUE

Station Name: PRO002MA2818513 Date: 5/11/2007 Time: 10:24:07 AM

INTST [REDACTED]

NM-CTRL>LACE

30 200212 05312007 LACE

311.85	ASSESSED FTP
388.26	ASSESSED INT
1,819.12	TAX & PENALTY
2,519.23	ASSESSED TOTAL
59.40	ACCRUED FTP
136.63	ACCRUED INT
196.03	TOTAL ACCRUALS
371.25	TOTAL FTP
524.89	TOTAL INT
2,715.26	BALANCE DUE

INTST

NM-CTRL>LACE

30 200312 05312007 LACE

162.25	ASSESSED FTP
211.93	ASSESSED INT
1,389.27	TAX & PENALTY
1,763.45	ASSESSED TOTAL
89.52	ACCRUED FTP
103.50	ACCRUED INT
193.02	TOTAL ACCRUALS
251.77	TOTAL FTP
315.43	TOTAL INT
1,956.47	BALANCE DUE



State of Rhode Island and Providence Plantations
SUPERIOR COURT

☒ PROVIDENCE/BRISTOL ☐ KENT ☐ WASHINGTON ☐ NEWPORT

CIVIL ACTION, FILE No PC 07-1775
First Amended Complaint

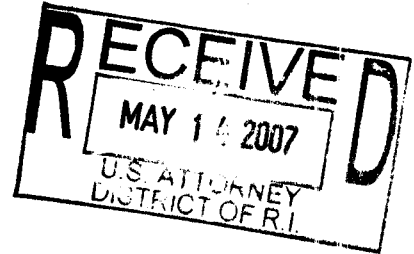
Ned Stevens, Advertising, Inc.

.....
The United States of **Plaintiff**
America (Department of the
Internal Revenue Service), et al
.....

Defendant

Summons

Internal Revenue Service
Acting Director
PO Box 9112
Stop 20800
JFK Federal Bldg
Boston, MA 02203



To the above-named Defendant:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon James Moretti, Esq.
300 Centerville Road, #300W, Warwick, RI 02886
Plaintiff's attorney, whose address is

.....
an answer to the complaint which is herewith served upon you within 20 days after service of this summons upon you, exclusive of the day of service.

If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

.....
[Signature]
CLERK

April 23, 2007

Dated:

(Seal of the Superior Court)



State of Rhode Island and Providence Plantations
SUPERIOR COURT

☒ PROVIDENCE/BRISTOL ☐ KENT ☐ WASHINGTON ☐ NEWPORT

CIVIL ACTION, FILE No PC 07-1775
First Amended Complaint

Ned Stevens, Advertising, Inc.

.....
The United States of **Plaintiff**
America (Department of the
Internal Revenue Service), et al
.....

Defendant



Summons

Internal Revenue Service
Acting Director
PO Box 9112
Stop 20800
JFK Federal Bldg
Boston, MA 02203

To the above-named Defendant:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon James Moretti, Esq.
300 Centerville Road, #300W, Warwick, RI 02886
Plaintiff's attorney, whose address is

.....
an answer to the complaint which is herewith served upon you within 20 days after service of this summons upon you, exclusive of the day of service.

If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

.....

CLERK

April 23, 2007

Dated:

(Seal of the Superior Court)